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Attorneys for SECURED CREDITOR
COUNTY OF RIVERSIDE, CALIFORNIA
A CALIFORNIA TAXING AUTHORITY

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:	)	Case No. 08-35653 KRH
)	
CIRCUIT CITY STORES, INC.	)	Chapter 11
)	
Debtor(s).)	
	)	OBJECTION OF RIVERSIDE
	)	COUNTY, CALIFORNIA TAXING
	)	AUTHORITY TO DEBTOR'S
	)	MOTION FOR ORDERS (1) (A)
	)	APPROVE PROCEDURES INC
	)	ONNECTION WITH SALE OF
	)	ALL OR SUBSTATNIALY ALL
	)	OF THE BUSINESS OR
	)	ADDITIONAL POST PETITION
	)	FINANCING FOR THE
	)	BUSINESS ET AL

Date: January 16, 2009

1 Riverside County, California, a California Taxing Authority and
2 hereby files its joinder with the objections filed by the Texas Taxing
3 Authorities (Banda) and the Florida Taxing Authorities (Hanlon)

4 Riverside, California is a local subdivision of the State of
5 California. It has the right to assess local taxes.

6 **I. INTRODUCTION.**

7 At issue are two parcels of property owned by the debtor.
8 The property located at 12530 Day Street, Moreno Valley, California
9 currently has \$69,592.70 in current secured real property taxes due
10 and owing. The property at 40480 Winchester Rd. Temecula, California,
11 currently has \$50,561.78 due and owing. The grand total is \$120,154.48
12 and is subject to interest once delinquent.

13 The secured real property taxes are a first priority lien on the
14 property and must be paid upon sale/transfer as explained below.

15 **II. CALIFORNIA TAXES ARE A FIRST PRIORITY LIEN.**

16 California Revenue and Taxation Code Section 2192.1 states:

17
18 Every tax declared in this chapter to be a lien on real property
19 . . . have priority over all other liens on the property,
20 regardless of the time of their creation. Any tax . . .
21 described in the preceding sentence shall be given priority over
22 matters including but not limited to any recognizance, deed,
23 judgment, debt, obligation, or responsibility with respect to
24 which the subject real property may become charged or liable.

25 **III. REAL PROPERTY TAX ASSESSMENTS ARE MANDATED UNDER**

26 _____ Under California State Law, every piece of real property is
27
28

1 subject to taxation.¹ California Revenue and Taxation Code section
2 401 states: "Every assessor shall assess all property subject to
3 general property taxation at its full value."

4 The Treasurer and Tax Collector is the governmental agency that
5 collects taxes. The Office of the Assessor determines the value upon
6 which the taxes are based.

7 Under California State Law, real property is to be assessed at
8 the same percentage of fair market value.²

9 California Revenue and Taxation Code Section 401.3 provides that:
10 "The assessor shall assess all property subject to general property
11 taxation on the lien date as provided in Articles XIII and XIII A of
12 the Constitution. . . ."

13 Real property taxes are assessed as of January 1 ("lien date")
14 of the year in which taxes become due.³

15 In California, property taxes are in rem and are payable only

16
17 ¹ California Revenue and Taxation Code section 104 states:
18 "Real estate or real property includes: (a) The possession of,
claim to, ownership of or right to the possession of land."

19 ²In California, property tax assessments consist of two
20 components. The first component is the assessed value. The
21 second is the tax rate. The latter is applied against the former
22 to calculate the amount of taxes due. This equation is sometimes
known as the tax ratio. For taxable real property, the assessed
value is determined at the same percentage of fair market value.
California Constitution Article XIII section 1.

23 ³ California Revenue and Taxation Code, section 117 states:
24 "Lien date is the time when taxes for any fiscal year become
25 a lien on the property." California Revenue and Taxation Code
Section 118 defines assessment year as "the period beginning with
a lien date and ending immediately prior to the succeeding lien
date for taxes levied by the same agency."

26 Revenue and Taxation Code section 2192 states:" . . . all tax
27 liens attach annually as of 12:01 a.m. on the first day of
28 January preceding the fiscal year for which the taxes are
levied..."

1 through sale proceeds. California Revenue and Taxation Code Section
2 2187 states: " Every tax on real property is a lien against the
3 property assessed." See Long Beach v. Aistrap, 164 Cal. App. 2d 41
4 (1958).

5 **IV. CALIFORNIA TAXES MUST BE PAID AT TRANSFER AND SALE.**

6 California Revenue and Taxation Code Section 2192.2 states:

7
8 Upon the sale. . . . conducted under judicial process or otherwise
9 by any sheriff, constable, trustee, receiver, or other
10 ministerial officer, of any real property upon which ad valorem
11 property taxes . . . are due and unpaid at the time of sale, the
12 proceeds from that shall, after the payment of
13 necessary and incidental sale expenses, be first applied to the
14 amount of those ad valorem property taxes . . . and be
15 transmitted by the conducting officer to the office responsible
16 for the collection of those taxes and assessments. Emphasis
17 added.

18 Under these circumstances it would be appropriate to require
19 Debtor to immediately pay the tax liens or at minimum segregate funds
20 as adequate protection for the California Taxing Authority.

21 Like Texas and Florida Taxing Authorities the 2009 secured real
22 property taxes have become a statutory lien on the real property as
23 well.

24 Respectfully submitted

25 Dated: January 15, 2009

ROMERO LAW FIRM

26
27 By /s/ MARTHA E. ROMERO
28 MARTHA E. ROMERO
Attorney for Secured Creditor
County of Riverside, CA
A California Taxing Authority

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